

FILED

JUN 23 2011

**Board of Vocational Nursing
and Psychiatric Technicians**

KAMALA D. HARRIS
Attorney General of California
MARC GREENBAUM
Supervising Deputy Attorney General
CHRISTINA THOMAS
Deputy Attorney General
State Bar No. 141267
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2557
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2007-2839

JENNIE MARIE CHAVIRA
6823 Perry Road
Bell Gardens, CA 90201

A C C U S A T I O N

Psychiatric Technician License No. PT 32022

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about January 30, 2004, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Psychiatric Technician License No. PT 32022 to Jennie Marie Chavira (Respondent). The Psychiatric Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the
5 period within which the license may be renewed, restored, reissued or reinstated. Under section
6 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after
7 the expiration.

8 5. Section 480 states, in pertinent part:

9 "(a) A board may deny a license regulated by this code on the grounds that the applicant
10 has one of the following:

11 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
12 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
13 board is permitted to take following the establishment of a conviction may be taken when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
15 an order granting probation is made suspending the imposition of sentence, irrespective of a
16 subsequent order under the provisions of Section 1203.4 of the Penal Code.

17 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
18 benefit himself or herself or another, or substantially injure another."

19 6. Section 490 states, in pertinent part:

20 "(a) In addition to any other action that a board is permitted to take against a licensee, a
21 board may suspend or revoke a license on the ground that the licensee has been convicted of a
22 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
23 or profession for which the license was issued.

24 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
25 discipline a licensee for conviction of a crime that is independent of the authority granted under
26 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
27 of the business or profession for which the licensee's license was issued.

28 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a

1 conviction following a plea of nolo contendere. Any action that a board is permitted to take
2 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
3 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
4 made suspending the imposition of sentence, irrespective of a subsequent order under the
5 provisions of Section 1203.4 of the Penal Code."

6 7. Section 4520 provides, in pertinent part, that the Board may discipline any licensed
7 psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of
8 the Psychiatric Technicians Law (Code § 4500, et. seq.)

9 8. Section 4521 states:

10 "The board may suspend or revoke a license issued under this chapter [the Psychiatric
11 Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:

12 "(a) Unprofessional conduct, which includes but is not limited to any of the following:

13

14 (5) Use any controlled substance as defined in Division 10 (commencing with
15 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in
16 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
17 injurious to himself or herself, any other person, or the public or to the extent that the
18 use impairs his or her ability to conduct with safety to the public the practice
19 authorized by his or her license.

20

21 (7) Be committed or confined by a court of competent jurisdiction for
22 intemperate use of or addiction to the use of any of the substances described in
23 paragraphs (4) and (5), in which event the court order of commitment or confinement
24 is prima facie evidence of the commitment or confinement.

25

26 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of, or conspiring to violate any provision or terms of this chapter.

28

1 "(f) Conviction of any offense substantially related to the qualifications, functions, and
2 duties of a Psychiatric Technician, in which event the record of the conviction shall be conclusive
3 evidence of the conviction. The board may inquire into the circumstances surrounding the
4 commission of the crime in order to fix the degree of discipline.

5

6 "(n) The commission of any act involving dishonesty, when that action is substantially
7 related to the duties and functions of the licensee."

8 REGULATORY PROVISIONS

9 9. California Code of Regulations, title 16, section 2578, states:

10 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
11 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
12 considered to be substantially related to the qualifications, functions or duties of a licensed
13 Psychiatric Technician if to a substantial degree it evidences present or potential unfitness of a
14 licensed psychiatric technician to perform the functions authorized by his license in a manner
15 consistent with the public health, safety, or welfare. . . ."

16 COST RECOVERY

17 10. Section 125.3 provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 FIRST CAUSE FOR DISCIPLINE

22 (Convictions of Substantially-Related Crimes)

23 11. Respondent is subject to disciplinary action under sections 480, subdivision (a)(1),
24 490, and , 4520 subdivision (f), in conjunction with California Code of Regulations, title 16,
25 section 2578, in that Respondent was convicted of crimes that are substantially related to the
26 qualifications, functions, and duties of a psychiatric technician as follows:

27 a. On May 27, 2010, after pleading *nolo contendere*, Respondent was convicted of one
28 misdemeanor count of violating Penal Code section 148.9 [false identification to peace officer], in

1 the criminal proceeding entitled *The People of the State of California v. Jennie Marie Chavira*
2 (Super. Ct. San Bernardino County, 2009, No. MSB1000509). Respondent was placed on
3 probation for a period of 24 months and fined. The circumstances surrounding the conviction are
4 that on December 24, 2009, a San Bernardino Sheriff's Officer was called to investigate a
5 domestic disturbance at the San Manuel Casino South Parking Lot, in San Bernardino, California.
6 Upon arrival, the officer identified Respondent as the cause of the disturbance. Respondent was
7 identified by the San Manuel's report system as a previous trespasser with prior contacts and
8 instructions to stay off the reservation property. Respondent was subsequently convicted of
9 violating Penal Code section 148.9 [false identification to peace officer.]

10 b. On February 5, 2009, after pleading guilty, Respondent was convicted of one
11 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
12 having 0.08% and more, by weight, of alcohol in her blood], in the criminal proceeding entitled
13 *The People of the State of California v. Jennie Marie Chavira* (Super. Ct. San Bernardino County,
14 2009, No. TWV900051). Respondent was sentenced to thirty days in jail, placed on probation for
15 a period of 36 months, and fined. The circumstances surrounding the conviction are that on or
16 about November 19, 2008, a Rancho California Highway Patrol Officer, during a routine traffic
17 stop, pulled Respondent over for following a vehicle too close from behind. He observed her to
18 have red watery eyes, and a strong odor of an alcoholic beverage on her person. Respondent
19 agreed to a series of Standardized Field Sobriety Tests which she failed to complete satisfactorily.
20 Respondent was subsequently given two alcohol breath tests, with results of .103% BAC and
21 .088% BAC. Respondent was convicted of violating Vehicle Code section 23152, subdivision (b)
22 [driving while having 0.08% and more, by weight, of alcohol in her blood.]

23 c. On August 19, 2008, after pleading guilty, Respondent was convicted of one
24 misdemeanor count of violating Penal Code section 647, subdivision (f) [disorderly conduct], in
25 the criminal proceeding entitled *The People of the State of California v. Jennie Marie Chavira*
26 (Super. Ct. San Bernardino County, 2008, No. 2821764JC). Respondent was sentenced to one
27 day in jail, placed on probation for a period of 12 months, and fined. The circumstances
28 surrounding the conviction are that on June 20, 2008, a San Bernardino Sheriff's Officer

1 responded to a call from the San Manuel Casino Officers involving a drunk female that had been
2 detained. Respondent was observed to be stumbling around inside the casino. Respondent fell on
3 the Casino Officer and began cursing at Casino Staff in public. Officers observed her to have
4 slurred speech and have a strong odor of an alcoholic beverage coming from her person.
5 Respondent was subsequently convicted of violating Penal Code section 647, subdivision (f)
6 [disorderly conduct.]

7 d. On June 21, 2007, after pleading guilty, Respondent was convicted of one
8 misdemeanor count of violating Penal Code section 4600, subdivision (a) [damage to jail/prison],
9 in the criminal proceeding entitled *The People of the State of California v. Jennie Marie Chavira*
10 (Super. Ct. Los Angeles County, 2007, No. 7PK04196). Respondent was sentenced to seven days
11 in jail, placed on probation for a period of 3 years and fined. The circumstances surrounding the
12 conviction are that on June 19, 2007, Respondent, while being detained at the Pomona Police
13 Department, damaged and destroyed wall paneling, the air conditioning vent cover, the light
14 fixture, and floor paneling inside the detention room. Respondent was subsequently convicted of
15 violating Penal Code section 4600, subdivision (a) [damage to jail/prison.]

16 e. On October 18, 2005, after pleading *nolo contendere*, Respondent was convicted of
17 one misdemeanor count of violating Vehicle Code section 14601.5, subdivision (a) [driving with
18 a suspended license due to a driving under the influence arrest], in the criminal proceeding
19 entitled *The People of the State of California v. Jennie Marie Chavira* (Super. Ct. Los Angeles
20 County, 2005, No. 5WH05249). Respondent was sentenced to ten days in jail, placed on
21 probation for a period of 24 months and fined. The circumstances surrounding the conviction are
22 that on August 12, 2005, Respondent drove a vehicle in violation of a suspension imposed due to
23 a prior arrest for driving under the influence of alcohol. Respondent was subsequently convicted
24 of violating Vehicle Code section 14601.5, subdivision (a) [driving with a suspended license due
25 to a driving under the influence arrest.]

26 f. On February 19, 2004, after pleading *guilty*, Respondent was convicted of one
27 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
28 having 0.08% and more, by weight, of alcohol in her blood], in the criminal proceeding entitled

1 *The People of the State of California v. Jennie Marie Chavira* (Super. Ct. Orange County, 2003,
2 No. 03CM02401). Respondent was sentenced to 45 days in jail, placed on probation for a period
3 of three years, and fined. The circumstances surrounding the conviction are that on or about
4 February 26, 2003, an Orange County California Highway Patrol Officer, during a routine traffic
5 stop, observed Respondent to have red watery eyes, and a strong odor of an alcoholic beverage on
6 her person, and impaired, slurred speech. Respondent agreed to a series of Standardized Field
7 Sobriety Tests which she failed to complete satisfactorily. Respondent was subsequently given
8 two alcohol breath tests, with results of .21% BAC and .21% BAC. Respondent was convicted of
9 violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by
10 weight, of alcohol in her blood.]

11 g. On August 26, 1997, after pleading guilty, Respondent was convicted of one
12 misdemeanor count of violating Vehicle Code section 23103, subdivision (a) [reckless driving on
13 a highway], in the criminal proceeding entitled *The People of the State of California v. Jennie*
14 *Marie Chavira* (Super. Ct. San Bernardino County, 1997, No. TWV20504). Respondent was
15 sentenced to 30 days in Jail, and fined. The circumstances surrounding the conviction are that on
16 or about February 2, 1997, a San Bernardino County California Highway Patrol Officer observed
17 Respondent driving a vehicle on a highway in willful disregard for the safety of persons or
18 property. Respondent was subsequently convicted of violating Vehicle Code section 23103,
19 subdivision (a) [reckless driving on a highway.]

20 h. On September 8, 1997, after pleading *nolo contendere* Respondent was convicted of
21 one misdemeanor count of violating Health and Safety Code section 11550, subdivision (a)
22 [possession of an illegal substance], in the criminal proceeding entitled *The People of the State of*
23 *California v. Jennie Marie Chavira* (Muni. Ct. Los Angeles County, 1990, No. 90M08961).
24 Respondent was sentenced to 90 days in jail, placed on probation for a period of three years, and
25 fined. The circumstances surrounding the conviction are that on or about December 15, 1990,
26 Respondent was found in possession of an illegal substance violating Health and Safety Code
27 section 11550, subdivision (a) [possession of an illegal substance.]

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 12. Respondent is subject to disciplinary action under sections 480 (a)(2), and 4521,
4 subdivision (n), for committing dishonest acts and being convicted of crimes involving dishonest
5 acts. Complainant refers to and incorporates all the allegations contained in paragraph 11, above,
6 subparagraphs (a) through (h), inclusive, as though set forth fully.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 13. Respondent is subject to disciplinary action under sections 480, subdivision (a)(2),
10 and 4521, subdivision (a), in that Respondent committed acts of unprofessional conduct and was
11 convicted of crimes involving acts unprofessional conduct. Complainant refers to and
12 incorporates all the allegations contained in paragraph 11, above, subparagraphs (a) through (h),
13 inclusive, as though set forth fully.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Dangerous Use of Alcohol)**

16 14. Respondent is subject to disciplinary action under section 4521, subdivisions
17 (a)(5)(7), in that Respondent used dangerous drugs, or alcoholic beverages in a manner dangerous
18 to herself and other persons, to an extent that the use impaired her ability to conduct with safety to
19 the public the practice of a Psychiatric Technician. Complainant refers to and incorporates all the
20 allegations contained in paragraph 11, above, subparagraphs (a) through (h), inclusive, as though
21 set forth fully.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Convictions Involving the Consumption of Alcohol)**

24 15. Respondent is subject to disciplinary action under section 4521, subdivisions
25 (a)(5)(7), in that Respondent was convicted of crimes involving the consumption of alcohol.
26 Complainant refers to and incorporates all the allegations contained in paragraph 11 above,
27 subparagraphs (a) through (h), inclusive, as though set forth fully.

28 ///

1 SIXTH CAUSE FOR DISCIPLINE

2 (Violating Provisions of the Psychiatric Technician Act)

3 16. Respondent is subject to disciplinary action under section 4521, subdivision (d), in
4 that Respondent was convicted of crimes that violated the provisions of the Psychiatric
5 Technician Act. Complainant refers to and incorporates all the allegations contained in
6 paragraphs 11 through 15, above, inclusive as though set forth fully.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board issue a decision:

- 10 1. Revoking or suspending Psychiatric Technician License No. PT 32022, issued to
11 Jennie Marie Chavira;
- 12 2. Ordering Jennie Marie Chavira to pay the Board the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and,
- 15 3. Taking such other and further action as deemed necessary and proper.

16
17 DATED: June 23, 2011



18 TERESA BELLO-JONES, J.D., M.S.N., R.N.
19 Executive Officer
20 Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

21 LA2010601015
22 60592467.doc
23 3/22/11-IC
24
25
26
27
28